



May 19, 2020

The Honorable Lorna G. Schofield
Thurgood Marshall United States Courthouse
40 Foley Square, Rm. 2102
New York, NY 10007

Application GRANTED. Defendant's motion in limine, due May 22, 2020, and the proposed sealed records at Dkt. No. 27 shall be filed under seal. Only Defendant Long Island Railroad, Andrew Muccigrosso, Esq., Plaintiff Janice Alley, Marc Wietzke, Esq. and Sean Constable, Esq. shall have access to the sealed motion in limine and the sealed records at Dkt. No. 27. SO ORDERED.

Dated: May 20, 2020
New York, New York

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

via ECF

RE: Alley v. LIRR 19 CV 7530 (LGS)
Motion for Permission to File Under Seal

Dear Judge Schofield:

Defendant LIRR respectfully submits this motion seeking permission to file its motion *in limine*, which is due on May 22, 2020, under seal pursuant to I.D.3 of this Court's Individual Rules and Procedures for Civil Cases. The proposed sealed records are submitted with this letter under seal. Defendant anticipates filing records of the plaintiff's treatment with Dr. Beth Hollander exchanged by the plaintiff during discovery in support of its motion to preclude the evidence relating to the subject matter discussed in the doctor's records. LIRR's memorandum of law will discuss the subject of these records and refer to the records as exhibits.

Federal courts have routinely held that medical records are not subject to the right to public access and have sealed docket entries and redacted documents that contain this type of information. See, e.g., *Dilworth v. Goldberg*, No. 10-CV-2224 JMF, 2014 U.S. Dist. LEXIS 106258, (S.D.N.Y. Aug. 1, 2014) ("[Documents] were properly redacted, as they comprised Plaintiff's private medical records."); *Hand v. New York City Transit Auth.*, No. 11-CV-997 (RRM) (MDG), 2012 U.S. Dist. LEXIS 120701, (E.D.N.Y. Aug. 26, 2012) ("Federal law generally treats medical records as confidential . . . Thus, plaintiff's motion to seal is granted in part with respect to portions of dockets sheets that include the aforementioned Employee Medical History & Physician's Certification Form."); *Wheeler-Whichard v. Doe*, No. 10-CV-0358S, 2010 U.S. Dist. LEXIS 88675 (W.D.N.Y. Aug. 25, 2010) ("The Court notes, however, that this Court and other district courts routinely file medical records under seal . . . to protect plaintiff's privacy interests in his medical records and, therefore, plaintiff's medical records only shall be sealed."). Therefore, Defendant LIRR respectfully requests permission to file its motion *in limine* under seal.

An appendix listing the parties and attorneys who should be granted access to the sealed documents if this motion is granted is attached hereto. Thank you for your consideration of this request.

The agencies of the MTA

Yours etc.,
Paige Graves, Esq.
Vice-President, General Counsel & Secretary

/s/
By: Andrew Muccigrosso, Esq.

cc: Marc Wietzke, Esq. (via ECF)